

REMARKS

This paper is submitted in response to the non-final Office Action dated May 20, 2005 (“the Office Action”).

Claims 1-21 were previously pending in the application.

Claims 17 and 19 have been cancelled.

Claims 16, 18, and 20-21 stand rejected.

Claims 1, 12-16, 18, 20, and 21 have been amended to address formal matters. The amendments add no new matter.

Claims 22-26 have been added.

Accordingly, claims 1-16, 18, and 20-26 are currently pending in the present application.

Claims 16, 18, and 20-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,078,963 issued to Civanlar et al. (“*Civanlar*”), Office Action at 2, in view of U.S. Patent No. 6,628,617 issued to Karol et al. (“*Karol*”), *id.* at 3, 4, Notice of References Cited. Applicant respectfully requests that the pending rejections be withdrawn in view of the remarks and discussion presented below.

Allowable Subject Matter

Applicant gratefully acknowledges the Examiner’s indication that claims 1-15 are allowable. Allowable claims 1 and 12-15 have been amended to address matters of form. The amendments add no new matter.

*The Rejections under 35 U.S.C. § 103(a) Are Based upon an
Invalid Combination of References*

Claims 16, 18, and 20-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Civanlar* in view of *Karol*. While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicant has chosen respectfully to address the rejection in the Office Action as follows. Applicant reserves the right, for example in a continuing application, to establish that one or more of the cited references do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicant respectfully submits that the claims are patentable and respectfully requests reconsideration of the pending rejections in view of the remarks presented herein.

Applicant respectfully submits that the pending claims are allowable under § 103(a) because a person having ordinary skill in the art would have no motivation to combine the cited references as required to support the pending rejections. To establish a *prima facie* case of obviousness “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” MPEP § 2142.

For example, regarding claim 16, the Office Action notes that *Civanlar* does not disclose the use of a second switching fabric that comprises data ports through which data frames enter or exit the second switching fabric. Office Action at 3. The Office Action proposes that a person having ordinary skill in the art would have turned to *Karol* and combined the use of two network paths from *Karol* with the teachings of *Civanlar*. The proposed motivation for making this combination “would have been to provide an efficiency of routing through multiple switching fabrics.” Office Action at 4 (citing *Karol*, col. 4, lines 36-67).

Applicant respectfully disagrees. First, applicant notes that the proposed motivation is not present in the cited references. In general, network designers may endeavor to efficiently use system resources. However neither *Civanlar* nor *Karol* states a goal of providing an efficiency of routing through multiple switching fabrics.

Second, while *Karol* relates to the selection and use of network routes where two parallel routes are available, the goal in this reference of optimizing this selection is fully met in the teachings of this reference. Thus, *Civanlar* is not needed, and is at most cumulative, in the teachings that it offers toward the purposes of *Karol*.

The cited sections of *Karol* relate to techniques where two alternate networks may be available for routing data from a source endpoint 101 to a destination endpoint 151. The two networks in *Karol* use different modes of operation: one uses a connectionless (CL) protocol, such as IP routing, while the other network uses connection-based routing (CO) such as ATM, STM, or WDM switching. *Karol* is concerned with issues relating to the selection among such alternative networks in the routing of a data message. *Karol* at col. 1, line 50—col. 2, line 10. *Karol* expounds with particularity on techniques for selecting between the two alternate networks for routing information, and provides detailed information on choosing when one network may be preferable to another. “In the parallel configuration, since at least two paths exist between the originating and destination CL nodes, one using the CL network and the other using the CO network, there is always a routing choice, i.e., CL to CO to CL or entirely CL. The gateway can make the routing selection based on maximizing efficiency.” *Id.* at col. 3, lines 61-66. Thus, upon reading *Karol* a person having ordinary skill in the art would have addressed the purpose and motivation of *Karol*, and would not have a motivation to turn to *Civanlar*. Further, Applicant sees no stated goal or purpose in *Civanlar* that would provide a motivation for a person having ordinary skill in the art to turn to *Karol*.

Accordingly, Applicant respectfully submits that claim 16 and all claims dependent therefrom are allowable under § 103(a). At least for similar reasons, claims 18, 20, and 21 are also allowable under § 103(a).

New Claims

New claims 22-26 have been added. The new claims add no new matter. Applicant respectfully submits that new claims 22-26 are allowable over the cited art. For example, claim 24 is directed to an apparatus that includes a means coupled to a memory circuit. The means coupled to the memory circuit generates routing data as a function of a set of port bits and a set of device bits. The set of port bits identifies one selected data port for each of a plurality of devices. The devices are coupled to at least one of a first and second switching fabric. Each port bit corresponds to a data port coupled to the plurality of devices and indicates a selection or non-selection of the corresponding data port. The set of device bits identifies each available data port coupled to a set of destination devices selected from the plurality of devices. Each device bit corresponds to a data port coupled to the plurality of devices and indicates a selection or non-selection of a corresponding device. These limitations, among others, are not disclosed in the cited references.

CONCLUSION

Applicant submits that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on 2005 AUG 22.

Cyrus F. Bharucha 2005 AUG 22
Attorney for Applicant Date of Signature

Respectfully submitted,



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